EVIDENCE—TESTIMONY AS TO STATEMENTS NOT REBUTTABLE BY COLLATERAL EVIDENCE.—Defendant, indicted for wife murder, pleaded that he committed the act in the heat of passion, alleging that deceased had confessed to illicit relations resulting in her pregnancy. To rebut the claim of such confession the state, over objection, introduced testimony to prove that in fact the wife was not pregnant, arguing that it was extremely unlikely that she would have confessed to such a condition when it did not exist. *Held,* the evidence should have been rejected on the ground that it raised collateral issues, *People* v. *Harris* (N. Y., 1913) 102 N. E. 546.

The Court of Appeals relied largely upon two cases in its decision, *People* v. *Webster,* 139 N. Y. 73, and *Shipp* v. *Commonwealth,* 124 Ky. 643, 99 S. W. 945, 10 L. R. A. (N. S.) 335. Neither of these is directly in point. In the former there was no issue as to the fact that the confession was made, the evidence being offered not to corroborate the claim of a confession but as justification for the killing, and it was rejected as incompetent for this purpose. In the latter case also it was admitted that the confession had been made and there being no issue on this point it was properly held that evidence as to the wife's reputation for chastity was inadmissible. On the other hand the question was ruled upon in *Knapp* v. *State,* 168 Ind. 153, and *Commonwealth* v. *Hourigan,* 89 Ky. 305, and the evidence held admissible. This is the view favored by Professor WIGMORE, (2 ILL. L. REV. 35), who says, "Assuming that for any purpose the objective fact has a bearing, the rule against contradicting a witness on a collateral point should not be allowed to stand in the way; for if the fact is relevant at all it is not any more collateral than the rumor of it." Undoubtedly such evidence has probative value, as is conceded by the New York court in the principal case, and, it seems, should be admitted as a strict matter of logic. So far the decided cases on this precise point are few, and it can not be said that the law governing it is definitely settled. The practical argument against the admission of such evidence however is strong; that it tends to raise collateral issues and produce confusion.

HUSBAND AND WIFE—NO RIGHT OF ACTION BY WIFE FOR LOSS OF CONSORTIUM.—Plaintiff's husband was injured through the negligence of defendant, and she seeks to recover for the loss of companionship, comfort, and support of her husband. The trial court rendered judgment for plaintiff and defendant appealed. The judgment was at first affirmed, but on a rehearing, the court *held,* that no personal right of the wife is violated in an injury to the husband caused by a mere negligent tort. *Gambino* v. *Manufacturers Coal and Coke Co.* (Mo. App. 1913), 158 S. W. 77.

At common law a husband can recover for the loss of consortium of his wife. *Guy* v. *Livefey,* 2 Cro. Jac. 501; *Hyde* v. *Scyffor,* 2 Cro. Jac. 538; 3 BLACK, COM. 140. Even under the modern statutes emancipating the wife, this right is still generally unimpaired, *So. Railroad Co.* v. *Crowder,* 135 Ala. 417; *Skoglund* v. *Minneapolis St. Ry. Co.,* 45 Minn. 330, though in Massachusetts and Connecticut neither spouse can now recover for the loss of the consortium of the other. *Marri* v. *Stamford St. R. Co.,* 84 Conn. 9, 33 L. R. A.

(N. S.) 1042, 78 Atl. 582; *Bolger* v. *Boston El. R. Co.*, 205 Mass. 420; *Feneff* v. *N. Y. C. & H. R. R. Co.*, 203 Mass. 278, 24 L. R. A. (N. S.) 1024, 89 N. E. 436. The common law never recognized any right of action in the wife analogous to the husband's action for loss of consortium, 3 BLACK, COM. 143; PECK, DOMESTIC RELATIONS 43; *Brown* v. *Kitselman* (Ind. 1912) 98 N. E. 631, 40 L. R. A. (N. S.) 236; *Stout* v. *Kansas City Terminal Ry. Co.* (Mo. App.) 157 S. W. 1019. Although it has come to be generally recognized that the wife can recover damages against one who maliciously alienates the husband's affections or who commits adultery with him. PECK, DOMESTIC RELATIONS 44; *Foot* v. *Card*, 58 Conn. 1, 6 L. R. A. 829; *Nolin* v. *Pearson*, 191 Mass. 283, 114 Am. St. Rep. 605, 4 L. R. A. (N. S.) 643, 6 Ann. Cas. 658; *Sims* v. *Sims*, 79 N. J. L. 577, 29 L. R. A. (N. S.) 842, 13 Harv. L. Rev. 490. And in *Flandermeyer* v. *Cooper*, 85 Ohio St. 327, 98 N. E. 102, 40 L. R. A. (N. S.) 360, a wife was allowed to recover damages for the loss of consortium of her husband against one who sold morphine to him in defiance of her wishes and with the effect of causing his insanity. *Clark* v. *Hill*, 69 Mo. App. 541 also allowed a wife to recover damages from a party who by persecution and threats caused the insanity of her husband. See also *Sims* v. *Sims*, 79 N. J. L. 577, 29 L. R. A. (N. S.) 842. It would seem that in no action based on negligence alone has the wife been allowed to recover for the loss of consortium. But where her injury flows from some affirmative act of the defendant her right to sue is being recognized.

MASTER AND SERVANT—CONSTRUCTION OF EMPLOYERS' LIABILITY STATUTES. —The Missouri Revised Statutes of 1909, § 7828, provide that belting, shafting, etc., when so placed as to be dangerous to employes while engaged in their ordinary duties, shall be safely and securely guarded. A belt in defendant's factory which was not guarded, broke, and plaintiff was injured by a blow from one of the loose ends. He brought an action based upon the statute. *Held*, the statute means that such dangerous appliances should be guarded only so as to prevent employes from being injured by coming in contact with them and not so as to prevent injury from accidental breakage. *Findlay* v. *Columbia Paper Box Co.* (Mo. 1913) 158 S. W. 22.

This is an original interpretation of such a statute, as other cases arising under similar statutes have all been decided upon a question of fact, namely: Was the unguarded appliance dangerous to employes while engaged in their ordinary duties? *Hindle* v. *Birtwistle*, 1 Q. B. 192; *Davidson* v. *Flour City Ornamental Iron Works*, 107 Minn. 17; *Snyder* v. *Waldorf Box Board Co.*, 110 Minn. 40; *Dillon* v. *National Coal Tar Co.*, 181 N. Y. 215. The principal case had been before the St. Louis Court of Appeals, and the court there intimated that the master was required to guard against breakage. *Strode* v. *Columbia Paper Box Co.*, 124 Mo. App. 511. Under similar statutes some courts have held that a liability arose from a failure to guard, even where the injury was caused by accidental breakage. *Davidson* v. *Flour City Ornamental Iron Works*, supra; *Richlands Iron Co.* v. *Elkins*, 90 Va. 249.